

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK
2019 AUG 15 P 12:25

In re:

TOMPKINS WILLOUGHBY LLC

Debtor

Chapter 11

Case No. 1-19-44729 (NHL)

**Declaration of Abraham Kappel in Support of Emergency Order to Show Cause to
Withdraw as Counsel for Debtor**

Under 28 U.S.C. §1746, I, Abraham Kappel, principal attorney for the Law Office of Abraham Kappel, declare under penalty of perjury that the following is true and correct:

1. I make this declaration in support of the accompanying emergency order to show cause by The Law Office of Abraham Kappel to “withdraw” as counsel for Debtor.
2. I make this order to show cause by way of emergency as documentation and other items pertaining to this bankruptcy are outstanding, or will be shortly, and our office cannot supply same.
3. Our office is listed as attorney for Debtor in the petition filed in the above-referenced case. Annexed hereto as *Exhibit A* is the petition.
4. Our office is in fact, *not* the attorney for Debtor in this or any other matter. The first time I learned of this matter was from a call from creditor’s attorney.
5. It is shocking that Debtor would forge my signature in the within petition. Annexed hereto as *Exhibit B* is my signature from various court filings along with my purported signature on the petition. The two signatures are nothing alike.

6. Our office never had any discussions with Debtor about any matter, including the within bankruptcy matter.

7. We, therefore, respectfully request that this Honorable Court strike our office as attorney for debtor *nunc pro tunc*.

8. No prior request for the relief sought herein has been made.

8. As there is a status conference scheduled in this matter for August 22, 2019 at 11:00 AM, we respectfully request that a hearing on this order to show cause be scheduled for a hearing at said time.

Dated: Brooklyn, New York
August 13, 2019

THE LAW OFFICE OF ABRAHAM KAPPEL

/s/ Abraham Kappel

Abraham Kappel
1203 Nostrand Ave
Brooklyn, NY 11230
T: (347) 762-2450
F: (917) 677-6609

Fill in this information to identify the case:

United States Bankruptcy Court for the:

District of New York
(State)

Case number (if known) _____ Chapter _____

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

2019 AUG -1 P 2:10

☐ Check if this is an amended filing

RECEIVED

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name

TOMPKINS WILLOUGHBY LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business* as names

3. Debtor's federal Employer Identification Number (EIN)

46-4175935

4. Debtor's address

Principal place of business

156 TOMPKINS AVE
Number Street

BROOKLYN NY 11206
City State ZIP Code

KINGS
County

Mailing address, if different from principal place of business

Number Street

P.O. Box

City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL)

N/A

6. Type of debtor

- ☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify: _____

Debtor

TOMPKINS WILLIAMS LLC

Case number (if known) _____

7. Describe debtor's business

A. Check one:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☒ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☐ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. Check all that apply:

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

☒ No

☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY

District _____ When _____ Case number _____
MM / DD / YYYY

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

☒ No

☐ Yes. Debtor _____ Relationship _____
District _____ When _____
Case number, if known _____ MM / DD / YYYY

List all cases. If more than 1, attach a separate list.

Debtor

Tompkins Wilbur & Co LLC
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property? _____

Number Street

City

State

ZIP Code

Is the property insured?

☐ No☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- ☐ Funds will be available for distribution to unsecured creditors.
- ☒ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors

14. Estimated number of creditors

☒ 1-49☐ 50-99☐ 100-199☐ 200-999☐ 1,000-5,000☐ 5,001-10,000☐ 10,001-25,000☐ 25,001-50,000☐ 50,001-100,000☐ More than 100,000

15. Estimated assets

☒ \$0-\$50,000☐ \$50,001-\$100,000☐ \$100,001-\$500,000☐ \$500,001-\$1 million☐ \$1,000,001-\$10 million☐ \$10,000,001-\$50 million☐ \$50,000,001-\$100 million☐ \$100,000,001-\$500 million☐ \$500,000,001-\$1 billion☐ \$1,000,000,001-\$10 billion☐ \$10,000,000,001-\$50 billion☐ More than \$50 billion

Debtor: Tompkins Willoughby LLC
Name

Case number (if known)

16. Estimated liabilities

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☒ \$500,001-\$1 million

- ☐ \$1,000,001-\$10 million
☐ \$10,000,001-\$50 million
☐ \$50,000,001-\$100 million
☐ \$100,000,001-\$500 million

- ☐ \$500,000,001-\$1 billion
☐ \$1,000,000,001-\$10 billion
☐ \$10,000,000,001-\$50 billion
☐ More than \$50 billion

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- ☐ The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- ☐ I have been authorized to file this petition on behalf of the debtor.
- ☐ I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08 01 2019
MM / DD / YYYY

[Signature] x

Signature of authorized representative of debtor

Title President

Kathleen Conzino Kellar
Printed name

18. Signature of attorney

x [Signature]
Signature of attorney for debtor

Date 08-1-2019
MM / DD / YYYY

ABRAHAM KAPPEL ESQ.
Printed name

The Law Firm of Abraham Kappel
Firm name

1203 Nostrand Ave
Number Street

Brooklyn
City

347-762-2450
Contact phone

NY
State

11225
ZIP Code

Email address

Bar number

State

Fill in this information to identify the case:	
Debtor name <u>Tom Alvis Willoughby LLC</u>	
United States Bankruptcy Court for the _____ District of <u>NY</u>	(State)
Case number (if known) _____	

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim		
					If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1	ALBANY PARTNERS LLC	208 Albany St Kingston NY 12401			607,435		
2							
3							
4							
5							
6							
7							
8							

Debtor

Tomkins Willoughby LLC
Name

Case number (if any)

Name of creditor and complete
mailing address, including zip codeName, telephone number, and
email address of creditor
contactNature of the claim
(for example, trade
debts, bank loans,
professional
services, and
government
contracts)Indicate if
claim is
contingent,
unliquidated,
or disputedAmount of unsecured claim
If the claim is fully unsecured, fill in only unsecured
claim amount. If claim is partially secured, fill in
total claim amount and deduction for value of
collateral or setoff to calculate unsecured claim.Total claim, if
partially
securedDeduction for
value of
collateral or
setoffUnsecured
claim

9

10

11

12

13

14

15

16

17

18

19

20

Official Form 201A (12/15)

[If debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11 of the Bankruptcy Code, this Exhibit "A" shall be completed and attached to the petition.]

[Caption as in Form 416B]

Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11

1. If any of the debtor's securities are registered under Section 12 of the Securities Exchange Act of 1934, the SEC file number is N/A.

2. The following financial data is the latest available information and refers to the debtor's condition on _____.

a. Total assets \$ _____

b. Total debts (including debts listed in 2.c., below) \$ _____

c. Debt securities held by more than 500 holders

Approximate
number of
holders:

secured <input type="checkbox"/>	unsecured <input type="checkbox"/>	subordinated <input type="checkbox"/>	\$ _____	_____
secured <input type="checkbox"/>	unsecured <input type="checkbox"/>	subordinated <input type="checkbox"/>	\$ _____	_____
secured <input type="checkbox"/>	unsecured <input type="checkbox"/>	subordinated <input type="checkbox"/>	\$ _____	_____
secured <input type="checkbox"/>	unsecured <input type="checkbox"/>	subordinated <input type="checkbox"/>	\$ _____	_____
secured <input type="checkbox"/>	unsecured <input type="checkbox"/>	subordinated <input type="checkbox"/>	\$ _____	_____

d. Number of shares of preferred stock _____

e. Number of shares common stock _____

Comments, if any: _____

3. Brief description of debtor's business: _____

4. List the names of any person who directly or indirectly owns, controls, or holds, with power to vote, 5% or more of the voting securities of debtor:

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Case No.
Chapter 11Tompkin Willoughby LLC Debtor(s)
-----X**AFFIRMATION OF FILER(S)**

All individuals filing a bankruptcy petition on behalf of a pro se debtor(s), must provide the following information:

Name of Filer: Steve Peters

Address: 150 Prospect Ave. Valhalla NY 10595

Email Address: _____

Phone Number: (718) 514-4622

Name of Debtor(s): Tompkin Willoughby LLC

CHECK THE APPROPRIATE RESPONSES:**ASSISTANCE PROVIDED TO DEBTOR(S):**

____ I PREPARED THE PETITION AND/OR ASSISTED WITH THE PAPERWORK BY DOING THE FOLLOWING: _____

☒ I DID NOT PROVIDE THE PAPERWORK OR ASSIST WITH COMPLETING THE FORMS.

FEE RECEIVED:

☒ I WAS NOT PAID.

____ I WAS PAID.

Amount Paid: \$ 0

I/We hereby affirm the information above under the penalty of perjury.

Dated: 8/1/2019

[Signature]
Filer's Signature

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In Re:

Case No.

TOMPKINS WILLOUGHBY LLC.
Debtor(s)
-----X

Chapter //

VERIFICATION OF CREDITOR MATRIX/LIST OF CREDITORS

The undersigned debtor(s) or attorney for the debtor(s) hereby verifies that the creditor matrix/list of creditors submitted herein is true and correct to the best of his or her knowledge.

Dated: *8/11/2019*

TOMPKINS WILLOUGHBY LLC
Debtor

Joint Debtor

[Signature]
Attorney for Debtor

Albany Ave Partners LLC
208 Albany Ave
Kingston NY 120401

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
U.S. BANK, N.A. et al.

Plaintiff.

INDEX: 705140/2015

-against-

**AFFIRMATION OF
SERVICE**

DAVID NAGAN et. al.


Defendants.

-----X
STATE OF NEW YORK)
)ss:
COUNTY OF KINGS)

The undersigned, an attorney duly admitted to practice before the courts of the State of New York hereby affirms pursuant to CPLR 2106:

I am not a party to this action, am over the age of 18, and reside within the State of New York. On August 2, 2016, I served the Verified Answer for the within matter upon Shapiro, Dicaro and Barak LLC at 175 Mile Crossing Blvd, Rochester, NY 14624, by depositing same, postage paid, to the aforementioned address, into the custody of the United States Postal Service within the State of New York.

Dated: August 2, 2016



Abraham Kappel, Esq.
LAW OFFICES OF LEE M. NIGEN
Attorneys for NAGAN
26 Court Street, Suite 1013
Brooklyn, New York 11242
(347) 294-0661

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
CHERYL PERRY

Plaintiff.

Index No.:

-against-

SUMMONS

Plaintiff designates
Kings County as the
Place of Trial

417 EAST 23 LLC

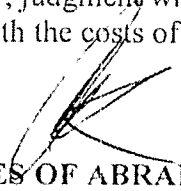
Defendant(s).

-----X
TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to appear in the Supreme Court of the State of New York, **County of Kings** at the office of the Clerk of said Court at **360 Adams Street, Brooklyn, NY 11201 in the County of Kings, City and State of New York.** within the time provided by law as noted below and to file your answer to the annexed complaint with the Clerk upon your failure to answer, judgment will be taken against you for the relief demanded in the complaint, together with the costs of this action.

Dated: Brooklyn, New York

June 12, 2018


LAW OFFICES OF ABRAHAM KAPPEL

1203 Nostrand Avenue

Brooklyn, New York 11225

T (347) 291-5590

F(917) 677-6609

NOTE: The law provides that: (a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after the proof of service thereof is filed within the Clerk of this Court within which to appear and answer.

Dated: Brooklyn, New York
February 24, 2016



LAW OFFICES OF LEE M. NIGEN

By: Abraham Kappel, Esq.- Of Counsel

Attorneys for Plaintiff

26 Court Street, Suite 1013

Brooklyn, New York 11242

(347) 294-0661

Debtor: Tompkins Willoughby LLC

Case number (if known) _____

16. Estimated liabilities

- ☐ \$0-\$50,000
☐ \$50,001-\$100,000
☐ \$100,001-\$500,000
☒ \$500,001-\$1 million

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17. Declaration and signature of authorized representative of debtor

- ☒ The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- ☒ I have been authorized to file this petition on behalf of the debtor.
- ☒ I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08 01 2019
MM / DD / YYYY

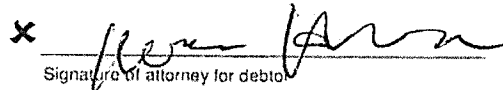
 x

Signature of authorized representative of debtor

Title President

Kathleen Conzino-Klein
Printed name

18. Signature of attorney

x 

Signature of attorney for debtor

Date 08-1-2019
MM / DD / YYYY

ABRAHAM KAPPEL ESQ
Printed name

The Law Firm of Abraham Kappel
Firm name

1203 Nostrand Ave
Number Street

Brooklyn
City

NY 11225
State ZIP Code

347-762-2450
Contact phone

Email address

Bar number

State

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

TOMPKINS WILLOUGHBY LLC

Debtor

X
EMERGENCY
ORDER TO SHOW CAUSE

Chapter 11

Case No. 1-19-44729 (NHL)

X
Upon the declaration of Abraham Kappel executed on the 13th day of August, 2019, and good cause being shown therefor;

IT IS HEREBY ORDERED, that Debtor show cause before this Court at the United States Bankruptcy Court, Eastern District of New York with an address of 271-C Cadman Plaza East, Courtroom 3577, Brooklyn, New York 11201 on the ___ day of _____ 2019, or as soon thereafter as counsel may be heard, why an order should not issue pursuant to Local Civil Rule 1.4, relieving the Law Office of Abraham Kappel as attorney for Debtor; and it is further

ORDERED that service of a copy of this order via ECF upon Creditor's counsel and service of a copy of this order upon Debtor via priority mail on or before August ___, 2019, shall be sufficient service.

Dated: _____

Hon. Nancy Hershey Lord
United States Bankruptcy Judge